Environmental Protection Agency - Region 4

Fiscal Year 2002

Enforcement & Compliance Assurance

Accomplishments Report

Table of Contents

Top Accomplishments 1
- **Compliance Assistance Workshops** 1
- **RCRA Permit Evaders - Brass Foundries** 3
- **State Partnerships** 3
- **Federal Facilities - Department of Veterans' Affairs** 4

Enforcement Case Summaries 4
- **Multimedia Cases** 4
- **Clean Air Act** 5
- **Clean Water Act** 6
- **Comprehensive Environmental Response, Compensation and Liability Act** 8
- **Emergency Planning & Community Right-to-Know Act** 11
- **Federal Insecticide, Fungicide, & Rodenticide Act** 11
- **Resource Conservation & Recovery Act** 12
- **Toxic Substances Control Act** 14
- **Criminal Enforcement** 14

Environmental Protection Agency - Region 4
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Accomplishments Report

The following report details the accomplishments of the Environmental Protection Agency (EPA) - Region 4 enforcement and compliance programs during fiscal year 2002 (FY 2002), which lasts from October 1, 2001 through September 30, 2002. EPA Region 4 encompasses eight states in the southeastern United States, including Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. By working with the environmental agencies in these states, the Region has implemented a balanced approach in addressing environmental issues. Using a combination of enforcement, compliance incentives, and compliance assistance, the best approach for protecting the environment can be achieved.

Top Accomplishments

Compliance Assistance Workshops

Region 4 hosted several workshops during FY 2002 with the goal of helping the regulated community (business, industry and government) understand and meet their environmental obligations. EPA partnered with other providers of assistance such as state environmental agencies, local governments, trade associations, nonprofit organizations and academia to coordinate and develop the delivery of compliance assistance. The Region also worked with these organizations to track the types of compliance assistance offered and measure the results of compliance assistance. Below are some of the activities associated with these efforts:

Metal Galvanizers - Hot dip galvanizers prepare and coat different types of metal products and, as a part of their operations, they generate waste sludge, solvents, and acids that are hazardous. In FY 2002, the Region conducted compliance assistance visits at approximately two-thirds of the galvanizing facilities in the Region and found that 85% were in violation of the hazardous wastes regulations - with many of the violations being significant in nature. All significant violations are being addressed with appropriate enforcement by EPA or the states. In response to this high noncompliance rate, the Region hosted a compliance assistance workshop for the galvanizing industry in October 2002, to provide assistance in complying with the many areas of environmental requirements. Thirty-one galvanizers, several states, and the American Galvanizers Association attended the workshop, which included discussions about the requirements of Resource Conservation & Recovery Act (RCRA) for hazardous wastes, the Emergency Planning & Community Right-to-Know Act (EPCRA), the Clean Air Act (CAA), the Clean Water Act (CWA), and the Department of Transportation (DOT) requirements for transporting hazardous materials. Surveys completed as part of the workshop indicated that attendees significantly increased their understanding of the RCRA and EPCRA regulations.

Colleges & Universities - In recent years, enforcement actions at colleges and universities across the nation have highlighted the problems these institutions have in complying with environmental requirements. Operations at these facilities are numerous and cover EPA-regulated activities at automotive servicing areas; teaching and research laboratories; commercial graphic and print shops; greenhouses and farms; heating and power plants; pesticide storage facilities; storage tanks; septic systems, etc. During July 2002, a compliance assistance workshop held in Atlanta, Georgia, was attended by 130 representatives. Surveys completed by attendees after the workshop was completed indicated an increase in the understanding of the environmental requirements by 94%.

Textile Industry - The largest concentration of textile industries in the nation is located in Region 4. Since this industry has had a poor history of complying with the Clean Water Act requirements, and a new Clean Air Act requirement for fabric coating operations is in effect, the Region hosted two compliance assistance workshops in FY 2002 for the sector (a previous workshop was also held in May 2000). The workshops, held in Dalton and Atlanta, Georgia, were attended by 163 industry representatives. On average, over half of the attendees surveyed plan to implement changes as a result of information learned at the workshops.

Marinas Initiative - In previous years, this sector received outreach from the states to encourage compliance with the Emergency Planning & Community Right-to-Know Act (EPCRA). After a series of random inspections revealed continuing noncompliance at the marinas, the Region initiated three compliance assistance workshops as part of this ongoing effort. Further, the Region coordinated with several Local Emergency Planning Committees, State Emergency Response Commissions, trade associations, and private interest groups to provide various workshops, informational packages, and fact sheets to inform businesses of their potential obligation to report under EPCRA. Specific outreach efforts were conducted in the states of South Carolina, Georgia, Florida, and Kentucky. Also, the Region conducted a mail-out of more than 350 informational awareness packages to businesses within the marina sector. To further educational awareness and training, the Region required five marinas, as part of their enforcement settlement agreement, to conduct an EPCRA awareness seminar at the South Carolina In-Water Boat Show, which was estimated to have reached approximately 2,000 persons.

Electronic Equipment Management - As a result of the rapid technological advances in past years, electronic equipment like computers, VCRs, TVs, etc. are quickly becoming obsolete and replaced. Materials in the discarded equipment contain hazardous chemicals like lead, mercury and chromium. To prevent the improper disposal of this equipment where the hazardous chemicals may leach into the environment, EPA hosted workshops in Denver, Colorado, Atlanta, Georgia, and Mobile, Alabama to educate businesses, schools, and government about the requirements for disposal of electronic equipment, as well as opportunities for reuse, recycling, and used equipment collection events. Responses to the workshops were notably positive, with an average of two-thirds of the surveyed attendees intending to implement changes as a result of the workshops.

RCRA Permit Evaders - Brass Foundries

RCRA permit evaders are those facilities that are illegally handling hazardous waste without the proper controls in place to prevent exposure to chemicals that could cause harm to human health or the environment. OECA has designated permit evaders as a national priority where the RCRA hazardous waste programs should focus compliance and enforcement activities. Around the nation, companies have been discovered to be illegally storing and disposing of hazardous wastes that were leaching harmful chemicals into wetlands, exposing workers, etc.

In Region 4, brass foundries were targeted due to the concentration of these foundries in the Region and the potentially hazardous waste streams they generate as part of their operations. At foundries, sand is a material often used for molds and cores as part of melting and casting metal into a desired shape. The sand used during the brass foundry operations, which is reused until it is discarded, can contain high levels of lead and cadmium. In FY 2002, Region 4 finalized enforcement actions at three brass foundries for the illegal handling of this hazardous foundry sand, including thermal treatment of the sand that resulted in releases of lead into the air, and the practice of sending the treated sand offsite to be used at ballparks/playgrounds, sold as play sand for children, and used as backfill for material in the construction of parking lots and road fills (see "Case Summaries" for details of these enforcement actions). Much of the treated sand still contained amounts of lead above health-based levels, with particular concern for children's health via direct exposure to the play sand or at the ballparks/playgrounds. The enforcement actions resulted in the following environmental benefits:

- At two of the foundries, the combined stoppage of the illegal "incineration" of an estimated 5.7 million pounds of lead-contaminated sands *each year*. This will prevent uncontrolled releases of lead into the atmosphere, which could result in harm to the surrounding populations and contamination of the land and water.
- As a result of an emergency order, one foundry must conduct an investigation of the distribution and final location of 750,000 pounds of lead-contaminated foundry sand sold as play sand to approximately 40 retailers in four states. In the event that play sands are located, the order further provides for assessment and implementation of control measures for removal of the sand.
- All foundries must cease the uncontrolled shipment of contaminated sand offsite except to the appropriately permitted landfills. At all locations where the lead-contaminated sand was sent offsite from the foundries, potential contamination must be investigated and cleaned up.

State Partnerships

On September 9-10, 2002, Region 4 convened a joint EPA/State meeting to strategically plan activities in order to maximize resources and meet the shared mission of protecting human health and the environment. Senior managers and/or legal representatives from the eight Region 4 States attended the conference and provided input on the environmental challenges that are

facing their agencies. Priorities identified during the meeting were conveyed to the Office of Enforcement and Compliance Assurance to be used in the FY 2004/2005 enforcement and compliance planning process.

In FY 2002, the Region initiated the development of state-specific joint planning processes with the states of Florida, South Carolina and North Carolina. To date, Florida has agreed to the implementation of six projects, three proposed by Region 4 and three proposed by the State. South Carolina and Florida were also awarded State Technical Assistance Grants for the development of methodologies for the identification and prioritization of enforcement efforts to maximize environmental outcomes.

Federal Facilities - Department of Veterans' Affairs

In January 2002, EPA Region 4 and the Department of Veterans' Affairs (VA) co-hosted an Occupational Health & Safety and Environmental Compliance Conference at a VA Medical Center located in Augusta, Georgia. The EPA portion of the conference focused on preventing pollution, Environmental Management Systems, and compliance with the Clean Air Act requirements and Resource Conservation & Recovery Act requirements (including hazardous waste, medical waste and underground storage tanks). The conference goal was to help VA facility managers and operators enhance their knowledge of their environmental obligations, and increase the protection of public health and the environment.

Historically, this conference has been designed to cover a wide variety of issues impacting health and safety at VA Medical Centers. However, after EPA Headquarters and VA senior executives met to discuss the causes of common environmental compliance problems at VA Medical Centers, the decision was made to incorporate environmental compliance into the Health and Safety Conference. Surveys administered during the conference indicated that participants' knowledge of environmental regulations improved by approximately 90%.

Enforcement Case Summaries

Multimedia Cases

South Carolina Department of Transportation **-** On July 15, 2002, EPA and the South Carolina Department of Transportation (SCDOT) entered into a Consent Agreement resolving violations of the Clean Water Act (CWA) and the Resource Conservation & Recovery Act (RCRA) at eleven SCDOT facilities. As part of the agreement, SCDOT paid a $150,000 cash penalty and has initiated a Supplemental Environmental Project (SEP) to reduce erosion and sediment contamination at construction sites. The CWA violations included effluent violations and stormwater violations related to sediment erosion at SCDOT construction sites. The RCRA violations included the failure to properly identify hazardous wastes generated at the SCDOT facilities, the failure to prepare for and prevent releases of hazardous wastes, the improper management of hazardous waste in containers and tanks, the failure to clean up discharges,

inadequate training of workers that handle hazardous wastes, and other shipping, record keeping and reporting violations.

The SEP that SCDOT is implementing as part of the Consent Agreement involves mulching applications at construction sites to enhance erosion control and prevent sedimentation of surface waters. SCDOT will chip and grind vegetation cleared from construction sites, and apply the resulting mulch combined with polymer at the site. These operations will be performed in addition to current practices of storm water management and sediment control. The project will be applied to a minimum of 260 acres over a 2-year period, and should also benefit the public by increasing air quality due to decreased burning of vegetation (the standard practice). The total cost for this SEP is $2,132,400.

Atofina Chemicals, Inc. (Kentucy & Alabama) - On August 5, 2002, the United States District Court for the Eastern District of Pennsylvania entered a Consent Decree in this multi-regional, multimedia case. The Complaint against Atofina alleged that the company failed to comply with multiple environmental statutes (Clean Air Act, Clean Water Act, Emergency Planning and Community Right to Know Act, and the Resource Conservation and Recovery Act) and the accompanying regulations at six of its chemical processing facilities in four states (three facilities in EPA Region 4). The Consent Decree requires, among other things, the installation and operation of pollution control devices to address air pollutants at the Calvert City and Carrollton, Kentucky plants and the installation and operation of continuous pH monitoring equipment at the Calvert City and Carrollton, Kentucky facilities to address Clean Water Act violations. Atofina will pay a fine in the amount of $1,900,000 to the United States Treasury and perform a Supplemental Environmental Project to beautify and remediate a mile-long section of the Montlimar Canal in Mobile, Alabama, at a total cost of $300,000.

Clean Air Act (CAA)

Gallatin Steel Company (Kentucky) - On June 24, 2002, the United States District Court for the Eastern District of Kentucky entered a Consent Decree resolving alleged violations of the Clean Air Act by Gallatin Steel Company. The Gallatin lawsuit, filed in February 1999, simultaneously with an initial Consent Decree, alleged that Gallatin Steel Company violated emissions limits in its air permit, constructed certain emissions units without a permit, failed to install and operate pollution control equipment, and avoided regulatory requirements designed to prevent significant deterioration of air quality. EPA's initial proposed Consent Decree received adverse comments from local citizens living near the steel plant, alleging that, among other things, harmful metallic dust emissions were being emitted from Gallatin's steel making operation through its slag processor, Harsco Corporation, that were not addressed in the initial Consent Decree. Subsequent EPA inspections confirmed visible emissions of fugitive dust from the slag processing operation crossing the property line, and a separate case was filed against the Harsco Corporation slag processing plant. The final entry of the Consent Decree in the Gallatin Steel case requires, among other things, that Gallatin pay $925,000 in civil penalties and upgrade the direct evacuation system to address air emissions from its melt shop.

Harsco Corporation (Kentucky) - On June 20, 2002, a Consent Decree was entered in the United States District Court for the Eastern District of Kentucky for Harsco Corporation's alleged violations of the Clean Air Act. Harsco Corporation, the slag processing plant for Gallatin Steel Company, had visible fugitive dust emissions which crossed the property line on numerous occasions. The Harsco Consent Decree requires the company to pay $175,000 in civil penalties and to construct a partial enclosure with water spraying equipment to control dust emissions from its slag processing operations and to control dust from other locations. In addition, on October 8, 2002, in a separate citizen suit action against Harsco, the Court ordered that a technical expert be appointed to monitor the visible fugitive dust situation to determine whether there are further violations of the Clean Air Act and whether the dust creates further instances of nuisance under Kentucky law. Harsco is responsible for paying for the technical expert who will report its findings to the Court.

Publix Supermarket (Florida) **-** On December 19, 2001, EPA Region 4 filed a Consent Agreement and Final Order (CAFO) resolving violations of CAA § 608 and § 609 by Publix Supermarkets at its Deerfield Beach, Florida, facility. The CAFO requires Publix to pay a civil penalty of $27,810 and expend at least $83,400 on a Supplemental Environmental Project (SEP) which will prevent future violations of failing to use certified technicians at Publix stores throughout the southeast. Publix will spend a total of $165,000 on changes to its payroll and invoicing software that will not permit uncertified technicians to be paid for work requiring certification under CAA § 608 or § 609.

In many industries, such as automotive repair and maintenance, technicians are paid by the actual work orders they complete, even if they are not properly certified to perform the work. This is the second time EPA Region 4 has approved an SEP in a CFC (chlorofluorocarbons) case whereby billing and payroll software will be substantially revised to prevent uncertified individuals from performing or being paid for performing CFC work requiring certification under CAA § 608 and § 609.

Clean Water Act (CWA)

The Board of Water & Sewer Commissioners of the City of Mobile (Alabama) - On April 10, 2002, the United States District Court for the Southern District of Alabama signed and entered a Consent Decree resolving allegations against the Board of Water & Sewer Commissioners of the City of Mobile, Alabama (the Board) for numerous violations of the Clean Water Act. The Consent Decree requires the Board to pay a $114,000 civil penalty and implement specified injunctive relief as well as implement Supplemental Environmental Projects (SEPs) valued at more than $2 million. The Board is a separate entity from the City of Mobile. The Board operates, maintains, and manages the drinking water and sewage services for the City of Mobile and the surrounding areas within Mobile County.

The Board owns and operates three biological wastewater treatment facilities which have a combined design treatment capacity of 42.8 million gallons per day, and operates a collection system consisting of approximately 1,200 miles of sewer pipe and approximately 180 pump

stations. The treatment facilities of the Board produce both wastewater effluent and sewage sludge. Effluent from the treatment facilities is discharged into Three Mile Creek and to Mobile Bay. The Board had numerous sanitary sewer overflows from their collection systems into these waters, which is in violation of the Clean Water Act. The Board did not possess a permit issued under the Clean Water Act to discharge pollutants from its collection systems.

According to the terms and conditions of the Consent Decree, the Board is required to implement several management, operation, and maintenance activities with the goal of eliminating all sanitary sewer overflows into Three Mile Creek and to Mobile Bay. In addition, the Board has to conduct extensive water quality monitoring in the surface waters within the collection system area. Finally, the Board agreed to the following four SEPs: (1) a privately-owned sewer lateral repair/replacement project; (2) land acquisition through the State of Alabama's Forever Wild Program; (3) land acquisition within the Dog River watershed; and (4) creation & maintenance of a publicly available database of Water Quality Monitoring data within the Mobile Bay watershed.

This case is significant in that it was the first litigation settled under the Region's "Management, Operation & Maintenance" (MOM) Project - a compliance incentive program for sanitary sewer systems to prevent overflows - a leading cause of water quality impairment. Under the project, the Region asks permitted wastewater utilities to perform a detailed audit of their facilities and identify necessary improvements. By self-disclosing violations, participants can be eligible for favorable consideration regarding civil penalties while under a schedule for the facility improvements. The MOM project aims to bring all publicly-owned wastewater treatment facilities into compliance with their permits by 2011.

City of Alexander City (Alabama) - On July 25, 2002, the United States District Court for the Middle District of Alabama entered a Consent Decree resolving an enforcement action brought by EPA against the City of Alexander City, Alabama, and two textile manufacturers, Russell Corporation and Avondale Mills. Due to the discharge of pollutants by the Russell and Avondale facilities to the City's wastewater treatment plant, the City of Alexander was found to be in violation of its Clean Water Act permit. The plant's discharge was found to be chronically toxic to the *Ceriodaphnia dubia* (water flea) and in violation of the permit's color limit. In May of 2001, the City relocated its discharge outfall from Sugar Creek, a low flow stream that was dominated by the City's discharge at many times during the year, to Lake Martin, a large lake in east central Alabama. The relocation of the City's outfall to Lake Martin greatly reduced instream waste concentration and, therefore, resolved the City's toxicity violations.

The Consent Decree requires Alexander City, Russell, and Avondale to pay a penalty of $10,000 each and to collectively perform a Supplemental Environmental Project (SEP) valued at $197,000. The SEP selected by the defendants involves the purchase of environmentally significant property in the Middle Tallapoosa Watershed and the permanent preservation of the property in its natural condition.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Northside Drive Lead Superfund Site (Georgia) - On May 5, 2002, EPA entered into an Administrative Order on Consent with two smelter corporations, NL Industries, Inc. and Atlantic Steel, for an EPA response action at the Northside Drive Lead Superfund Site (Site). The Site comprises three neighborhoods which are adjacent to two closed smelting facilities. As part of the settlement, the two companies will conduct the removal of contaminated materials from the Site and provide reimbursement of $96,124.85 in costs incurred by EPA in assessing the area of contamination and the extent of lead in the neighborhood yards.

The Site is located in a mixed residential/light industrial section of Atlanta, Georgia. NL Industries, Inc. and Atlantic Steel operated smelting facilities adjacent to the Site from approximately the early 1920's until the 1970's. In April 2001, EPA began an investigation of lead levels in the soils surrounding the two defunct facilities. Analytical results from the soil samples collected at the residential properties indicated a lead concentration in excess of EPA's lead screening value for soils of 400 mg/kg for certain residential properties. EPA determined that air deposition of lead from furnace smokestacks, as well as spent slag dust and the distribution of discarded facility bricks, were the sources of contamination. Pursuant to the settlement, the companies have agreed to finish sampling the 550 residential yards in the impacted area, clean up those properties that exceed EPA's lead levels, and restore and monitor the landscaping of the affected yards. The two smelting facility properties are being remediated under separate orders.

Redwing Carrier/Saraland Apartments Superfund Site - On March 18, 2002, the Court entered a Consent Decree resolving the Redwing Carrier case after 10 years of administrative and judicial proceedings involving multiple federal agencies, 3rd party litigation, and potentially precedent-setting issues related to Region 4's ability to recover costs it incurred carrying out a permanent relocation as part of a removal action.

The Site comprises 5.1 acres of land and is located at 527 U.S. 43 in the City of Saraland, Mobile County, Alabama. For approximately ten years, from April 1961, until May 1971, Rentokil's predecessor, Redwing Carriers, Inc., ("Redwing"), owned the property and operated a terminal at the Site for its interstate trucking business. Rentokil used the property to maintain, clean, and park its fleet of trucks and tank trailers, which transported chemicals, asphalt and other substances. During cleaning of the trucks, residual portions of the substances transported in the trucks were released untreated to the ground at the Site. In May of 1971, Redwing closed the terminal at the Site and relocated its trucking operations.

In 1972, the Site was approved for the construction of low income housing by the U.S. Department of Housing and Urban Development. In 1973, defendant Saraland Apartments constructed a low income apartment complex on the Site. The Defendant Saraland Apartments knew or should have known of the contamination on the Site prior to its purchase of the Site. During construction, Defendant Saraland Apartments spread contamination around the Site and

buried contaminated material under the apartment buildings when it constructed the apartments. In April and May of 1985, EPA conducted preliminary tests at the Site. Analyses of selected samples of the tar-like substances at the Site revealed the presence of various organic compounds including naphthalene, acenaphtene, phenanthrene, and 1,2,4-trichlorobenzene, all of which are hazardous substances under CERCLA. The Site was listed on the National Priorities List, as defined in Section 105 of CERCLA, 42 U.S.C. Section 9605, in February 1990. EPA implemented a removal action that included permanent relocation of residents in the fall of 1996, approximately 60 Section 8 families resided in the apartments located on the Site.

The Region's attempts to negotiate a settlement with the parties through the CERCLA 122 process failed, and the matter was referred to the Department of Justice. A complaint was filed and subsequent negotiations led to a global settlement that included satisfaction of the EPA's claim, resolution of an ongoing third party litigation between the defendants, and recovery funds paid by HUD in settlement of a loan guaranteed. Specifically, the Consent Decree provided for the following: (1) Total settlement value was in excess of $10 million; (2) established a Special Account for all settlement proceeds; (3) crossed organizational boundaries and secured a joint settlement ($480,000) for another federal agency (HUD) via a non recourse note; (4) settled all 3rd party litigation suits before the court relative to this case.

Saraland Apartments, a recalcitrant Potentially Responsible Party that declared bankruptcy during final negotiations, was required to pay $100,000 and surrender of the property. This single action set a chain of events in motion that: (1) resulted in a full payment of the HUD's outstanding property lien, (2) transferred ownership of the site property, (3) and cleared the way for cleanup activities to begin. Meador, the builder of the apartment complex, will sell the real estate property it owns, which has an estimated value of $246,000.00, and turn over 90% of the proceeds of the sale to the government.

In addition to protecting human health and the environment, this settlement will benefit the Saraland community and the State in two ways. First, it will clean up a site that is currently an abandoned apartment complex that is, among other things, an eyesore to the residents that live adjacent to the site. The cleanup will lead to redevelopment of the site which will improve the neighborhood and will generate local tax revenue. Secondly, the settlement saves scarce state and federal tax dollars that can be used for the ongoing cleanup of other sites in the State that do not have viable potentially responsible parties.

Jack Goins Waste Oil Superfund Site (Tennessee) - On September 25, 2002, EPA signed four separate administrative agreements involving 604 parties for the Jack Goins Site (Site). These agreements require the Settling Parties to pay a total of $742,821.28 as reimbursement for past clean-up costs incurred by the EPA at this Site.

Between 1985 and 1999, Goins Waste Oil operated an oil collection and recycling facility in Cleveland, Tennessee. In 1999, as a result of serious contamination at the Site from years of inadequate waste oil storage and handling practices, EPA conducted a clean-up action during which 105,000 gallons of contaminated waste oil, 85,000 gallons of wastewater, and 224

cubic yards of contaminated soil were removed and shipped offsite for proper disposal. As a result, EPA incurred $1,103,299.76 in costs. Initially, EPA identified approximately 2,000 parties that were potentially responsible for contributing to the contamination at the Site. After verifying the addresses, the evidence, and the corporate history for these parties, more than 600 parties were identified as being clearly liable and still in business. In approximately five months, EPA contacted and settled with all 604 appropriate parties, resulting in four separate administrative agreements with an overall recovery of approximately 80% of the clean-up costs.

Velsicol Chemical Corporation (Georgia, Tennessee, Mississippi) - On May 1, 2002, the Department of Justice and EPA entered into an Administrative Order on Consent ("Settlement") with Velsicol Chemical Corporation to resolve its liabilities at six Superfund Sites located in EPA Region 4: the Shaver's Farm Site in LaFayette, Georgia; the Mathis Brothers/South Marble Top Road Landfill Site in Kensington, Georgia; the Tennessee Products Site in Chattanooga, Tennessee; the Hardeman County Landfill Site in Toone, Tennessee; the Valley Chemical Site in Greenville, Mississippi; and property known as the Former Coke Production Plant Property in Chattanooga, Tennessee (the "Sites"). Under the Settlement, Velsicol will pay approximately $1.9 million toward outstanding past and anticipated future cleanup costs of $3.8 million at the Sites. The $1.9 million will be placed into special accounts to finance work at the Sites. Velsicol's obligation to pay the $1.9 million under the agreement has been deferred until January 2005. Based upon Velsicol's documented limited ability to pay, EPA is forgiving approximately $1.9 million in costs.

The current shareholders of Velsicol, the main responsible parties at each of the Sites involved in the Settlement, purchased the company from Fruit of the Loom, Inc.(FOL) in 1986. Prior to the purchase, Velsicol had formed the Memphis Environmental Center (MEC), a division created to handle the environmental affairs of Velsicol. MEC has remained in existence and has continued to directly manage the environmental liabilities of Velsicol. As part of the purchase agreement, FOL gave Velsicol (MEC) an Indemnification Agreement for all environmental liabilities of Velsicol resulting from actions prior to the purchase date. Since 1986, FOL and Northwest Land Management, Inc. (NWI), a subsidiary of FOL that handles FOL's environmental liabilities, have fully indemnified Velsicol (MEC) for all costs related to the Sites involved in this settlement. Therefore, since the purchase date, though Velsicol (MEC) was the party directly involved with the cleanup and payment of costs at the Sites, the money for these costs has actually always come from FOL and NWI.

In December 1999, FOL filed for Reorganization under Chapter 11 of the Federal Bankruptcy Code. Because Velsicol's obligations in the Region are normally paid by NWI, the bankruptcy is having a tremendous effect on Velsicol's ability to meet its current obligations to EPA. Regional staff worked with Velsicol and MEC over the past two years to reach an acceptable resolution to Velsicol's liabilities within Region 4. EPA originally reached agreement with Velsicol on a payment plan in late 2000 at which time Velsicol began making payments. However, as a result of market conditions in the specialty chemical industry, the economy, and

the FOL/NWI bankruptcy, Velsicol's financial condition continued to deteriorate. Velsicol approached the Region to readdress its outstanding obligations based on an inability to meet its financial obligations.

Emergency Planning & Community Right-to-Know Act (EPCRA)

Oakwood Homes (Georgia & North Carolina) - On June 28, 2002, Region 4 entered a Consent Agreement & Final Order resolving Emergency Planning & Community Right-to-Know Act (EPCRA) §§312 and 313 violations by Oakwood Homes Corporation, requiring the company to pay a $189,110 penalty. Oakwood is a leading producer of manufactured homes. At five different facilities in Georgia and North Carolina, Oakwood Homes processed diisocyanates in excess of 25,000 pounds in 1996, 1997 and/or 1998. Diisocyanates are EPCRA toxic chemicals as set forth in EPCRA §313, and Oakwood failed to submit §313 reports for the chemicals for those years. Also, in 1996 and 1997 at three of the facilities, Oakwood had propane on site in excess of 10,000 pounds specified in EPCRA §312. Oakwood failed to submit §312 inventories for propane for those years. The Order resolves a total of 14 violations of EPCRA. §§312 and 313.

Tri-State Plant Food, Inc. (Alabama) - On July 11, 2002, a Consent Agreement & Final Order was filed resolving violations by Tri-State Plant Food, Inc. Under the Order, Tri-State Plant Food, Inc. will pay a total penalty of $30,813 for violations of EPCRA reporting and CERCLA notification requirements at its Dothan, Alabama plant.

On April 11, 2000, more than 5,000 gallons of anhydrous ammonia were released from the Tri-State Plant Foods facility. A subsequent EPCRA inspection revealed that the facility had not submitted timely reports under EPCRA § 312 for calendar years 1997, 1998, and 1999. In addition, the facility had not immediately notified the National Response Center of the chemical release, as required by CERCLA §103.

Federal Insecticide, Fungicide, & Rodenticide Act (FIFRA)

Micro Flo Company, LLC (Georgia) - On August 22, 2002, an administrative Consent Agreement and Final Order was filed resolving Micro Flo Company's alleged violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The settlement requires Micro Flo to pay a civil penalty of $1,053,858. The settlement was a result of EPA and Micro Flo's cooperative participation in Alternative Dispute Resolution, which was facilitated by an Administrative Law Judge. Historically, this penalty is significant because it is the largest penalty assessed under FIFRA by EPA.

Micro Flo is a subsidiary of BASF Corporation, and is in the business of manufacturing, marketing and selling certain end-use pesticide products which contain specific technical grade active ingredients. These products are sold to end-users, such as farmers for use on food crops, structural pest control professionals, and homeowners for use as general insecticides. After receiving allegations concerning the illegal importation of ingredients used in the production of

registered end-use pesticides by Micro Flo, EPA conducted a producer establishment inspection in May 2000, at Micro Flo's primary pesticide formulation facility in Sparks, Georgia. In addition, an EPA inspection was conducted at Micro Flo's warehouse located in Tifton, Georgia. Based upon the findings of the respective inspections and following a review of records submitted by Micro-Flo, EPA filed an administrative Complaint alleging that Micro Flo was in violation of FIFRA. The Complaint included 669 counts and assessed a penalty of $3,674,500. The complaint alleged that Micro Flo offered for distribution or sale several pesticide end-use products and active ingredient pesticides which differed in composition at the time of the sale or distribution from the composition as described at the time of registration. The Complaint further alleged that Micro Flo falsified the "Notices of Arrivals" accompanying multiple shipments of pesticide technical grade active ingredients by using the EPA Establishment Number of an approved producer while importing the pesticide ingredients from unapproved producers.

Resource Conservation & Recovery Act (RCRA)

Gaston Copper Recycling Corporation (South Carolina) - On January 23, 2002, a Settlement Agreement and Order of Judgment ("Agreement") was entered with Gaston Copper Recycling Corporation (GCRC) in the United States District Court for the District of South Carolina. The Agreement, which was entered with EPA and the State of South Carolina as Co-Plaintiffs, resolves violations of the Resource Conservation & Recovery Act (RCRA) and includes a $700,000 civil penalty.

GCRC, located in Gaston, South Carolina, is a former secondary copper smelting facility. In February 1995, the Tank House at the facility had a large catastrophic release of electrolytic solution that covered the basement floor. The entire amount of solution was eventually removed in March of 1997. The electrolytic solution was determined to be hazardous for lead and corrosivity, and subject to the RCRA requirements for hazardous waste. The basement floor at the time of the spill was only partially treated for acid protection, and the concrete integrity in many areas was suspected to have been compromised. Subsequent sampling conducted by EPA showed that bare soil had been exposed to the electrolytic solution, resulting in the illegal disposal of hazardous waste onto the ground. GCRC initiated measures to treat and remove contaminated media from the Tank House basement floor and clean the remaining surface. To date there has been approximately 1,231 tons of soils and concrete removed. As part of the Agreement, GCRC will conduct further testing to determine if all contamination has been removed, and conduct additional clean up as necessary under the RCRA §3008(h) Order that is already in place for corrective action at the facility.

Lee Brass Corporation (Alabama) - On April 4, 2002, a Consent Decree was entered with Lee Brass Corporation in the United States District Court for the Northern District of Alabama resolving alleged violations of RCRA. The Consent Decree, which was entered with EPA and the State of Alabama as Co-Plaintiffs, requires Lee Brass to pay a monetary penalty of $350,000, and to close an illegal incinerator that treated approximately 2.3 million pounds of lead contaminated sand on an annual basis.

The Lee Brass facility is located in Anniston, Alabama, and produces brass and bronze fittings using a sand casting process. As a result of EPA investigations, it was discovered that Lee Brass was illegally incinerating lead-contaminated sand as well as shipping contaminated sand to various offsite locations, including playgrounds. Approximately 500,000 to 1,000,000 pounds of sand were shipped offsite annually, containing an estimated 500-1000 pounds of lead. Incineration of the contaminated sand was also causing releases of lead through air emissions. As a result of the settlement, Lee Brass agreed to cease the illegal offsite shipments of sand, close the illegal incinerator, and to dispose of all discarded sand properly. Lee Brass will also conduct an extensive compliance audit of its facility, initiate an investigation of potential contamination, and conduct cleanup activities if necessary.

Precision Fabricating and Cleaning Company, Inc. (Florida) - On February 19, 2002, a Consent Decree was entered with Precision Fabricating and Cleaning Company, Inc. (PFC) in the United States District Court for the Middle District of Florida. The Consent Decree was entered with EPA and the State of Florida Department of Environmental Protection as co-plaintiffs, and includes a $75,000 civil penalty and injunctive relief involving groundwater remediation and long-term groundwater monitoring.

PFC, located in Cocoa, Brevard County, Florida, is a facility that cleans and refurbishes ground support equipment for the Kennedy Space Center, the Air Force, and other aerospace industry customers. As a result of facility operations, the groundwater beneath PFC became contaminated with the solvent compounds of trichloroethylene (TCE) and dichloroethylene (DCE). As part of the Consent Decree, PFC will undertake cleanup measures that include the extraction and treatment of contaminated groundwater by air stripping and carbon polishing, and down-gradient reintroduction of the clean water into the aquifer via injection wells. The groundwater remediation and long-term monitoring at PFC is estimated to cost between $1.1 and $1.4 million.

P&L Bark Nursery, Inc. (South Carolina) - On September 24, 2002, P&L Bark Nursery, Inc. (P&L) of Pageland, South Carolina, was issued a RCRA § 7003 Imminent and Substantial Endangerment Order. During 1997-1998, P&L purchased approximately 375 tons of foundry sand from Conbraco Industries, a local brass foundry, to be bagged and sold as play sand. The treated sand originated from Conbraco's brass molding operation, where it had been used as a molding sand and then thermally treated to reduce leachable levels of lead. However, EPA's investigation of the treated sand revealed that the sand continues to leach lead above regulatory limits for characteristic hazardous waste and contains total lead levels at concentrations above health-based standards.

P&L packaged and marketed the entire inventory of sands as play sand, and over an 8-month period in 1997 and 1998, sold the sands to approximately 40 different retailers throughout Georgia, Virginia, North Carolina and South Carolina. The uncontrolled sale and distribution of these hazardous sands presents an imminent and substantial hazard to both human health and the environment, with particular concern for children's health via direct exposure to the lead-contaminated play sand. The Order requires P&L Bark to undergo a series of investigatory

measures, including written notifications, to identify as many end users of the play sand product as possible. In the event that play sands are located, the order further provides for assessment, implementation of control measures for protection of human health and environment and remedial action where necessary.

Watts Regulator Company (North Carolina) - On January 30, 2002, a Consent Agreement and Final Order (CAFO) was filed resolving hazardous waste violations and requiring the Watts Regulator Company to pay a monetary penalty of $100,000. Watts Regulator, located in Spindale, North Carolina, is a brass foundry that produces pipes, valves, and fixtures for the plumbing industry. As part of the facility operations, foundry sand that is contaminated with lead is generated. From 1990 to 1999, Watts Regulator treated approximately 33 tons of lead contaminated sand per week in an onsite illegal incinerator. The sand, once treated, was used as backfill material for roads or parking lots, or sent to a local solid waste landfill. Approximately 200,000 pounds of treated foundry sand was used as backfill alone. The terms of the CAFO required Watts Regulator to close the illegal incinerator and to complete an investigation on locations where treated foundry sand was buried to determine if any significant lead and copper contamination existed. Results of the investigation indicate that the buried foundry sand does not cause any threat to human health or the environment.

Toxic Substances Control Act (TSCA)

Arab Electric Cooperative (Alabama) **-** On September 10, 2002, Region 4 entered a Consent Agreement & Final Order (Order) resolving violations of the Toxic Substances Control Act (TSCA) by the Arab Electric Cooperative. Pursuant to the Order, Arab will pay a cash penalty of $7,012.50 and will spend $23,576 on a Supplemental Environmental Project (SEP).

Arab Electric violated various provisions of the TSCA regulations related to the storage of Polycholorinated Biphenyls (PCBs), chemicals considered to be highly toxic and persistent in the environment. The SEP consists of the construction of a storage area to better secure electric transformers, which contain PCBs, that are removed from service. Currently, such transformers are stored outside where there is a greater likelihood of weather exposure-related problems.

Criminal Enforcement

Carnival Corporation (Florida) **-** On April 19, 2002, Carnival Corporation, the world's largest operator of passenger cruises, pled guilty to federal criminal charges related to the knowing falsification of Oil Record Books which log oil contaminated discharges at sea. Carnival was ordered to pay $18 million in fines and community service. Of that amount, $9 million was a criminal fine and $9 million was part of court ordered community service to the following groups to fund environmental projects, initiatives, emergency response, and education: Florida Environmental Task Force Trust Fund ($2 million), Sheriff's Foundation of Broward County - Domestic Security Task Force ($2 million), The National Park Foundation ($1.5 million), Florida Sea Grant Program ($1.5 million), Sanctuary Friends of the Florida Keys ($1 million), Florida Keys Land and Sea Trust ($500,000), The Nature Conservancy ($250,000) and

the Miami Museum of Science ($250,000). In addition, Carnival will implement a worldwide Environmental Compliance Plan that will modify the corporate structure and establish procedures and accountability, at every level of the Corporation, from top management of each operating line to each shipboard employee for all areas impacting or potentially impacting environmental matters. As part of the Environmental Compliance Plan, Carnival will create a corporate level compliance department and employ senior management and other specially trained personnel to ensure compliance with safety and environmental regulations, provide comprehensive training to employees pertaining to the handling and management of waste, will submit to court monitoring of the implementation of the compliance plan with quarterly reports and annual audits of every operation and vessel conducted by an independent consultant.

Cruise ships sailing in the United States and international waters are required to operate in compliance with laws and regulations designed to protect the environment, including specific requirements related to the prevention of pollution from ships. The bilge area of a ship collects water and waste from ship operations. The bilge waste, which typically contains oil, is disposed of at sea or by offloading it ashore. When discharging at sea, ships are required to use pollution prevention equipment and timely record all disposal of oily bilge waste in Oil Record Books. This pollution prevention equipment is designed to separate oil from water and then measure the oil content of the waste ensuring that it is less than 15 ppm before it is discharged to sea. Discharges that are in excess of 15 ppm are deemed harmful to the environmental and are forbidden by law. On numerous occasions from 1996 through 2001, Carnival ships discharged oily waste into the sea from their bilges by illegally using pollution prevention equipment. Carnival "fooled" the system into thinking the oil content of the waste was below 15 ppm by running fresh water past the oil content meter and thereby allowing the discharge of bilge waste containing oil above 15 ppm. On those occasions when the oil content meter was "fooled" with clean water while oily bilge waste was discharged overboard, engineers did not make entries in the Oil Record Book that disclosed this illegal practice. Instead, the engineers falsely represented in the Oil Record Books that the bilge waste had only been discharged overboard through properly functioning equipment and that the discharges contained less than 15 ppm oil.

Hydro-Vac Services (Tennessee) - On June 18, 2002, Billy Ray Foxworth, the president of Hydro-Vac Services, Inc.(Hydro-Vac), and Hydro-Vac were sentenced in United States District Court for the eastern district of Tennessee after earlier pleading guilty to falsifying reports submitted to the city of Chattanooga. Judge Edgar sentenced Foxworth to nine-months home detention and one-year probation. He also ordered Foxworth and Hydro-Vac to pay a $10,000 fine and to pay $250,000 in restitution. The city of Chattanooga will receive $100,000, the Tennessee Department of Environment and Conservation will receive $100,000 and the Southeastern Environmental Enforcement Network will receive the remaining $50,000. Foxworth could have received a sentence of twelve to eighteen months imprisonment, but Judge Edgar reduced Foxworth's sentence because of his cooperation with the government.

On September 27, 2001, Billy Ray Foxworth pled guilty in federal court to filing more than forty false sewage discharge monitoring reports. Hydro-Vac had a permit to discharge effluent into the sewer lines which led to the Moccasin Bend Wastewater Treatment Plant in

Chattanooga, Tennessee. The permit limited the amount of copper and zinc which could be discharged to the sewer, but on numerous occasions the amount of these pollutants in the wastewater significantly exceeded the permitted level. On more than forty occasions from 1997 through 2000, Hydro-Vac and Foxworth submitted monitoring reports to the City of Chattanooga which contained false information. On each of these occasions, the laboratory analysis of the discharge provided to Foxworth showed that the discharge exceeded the permit limits for either copper or zinc. Yet, the numbers Foxworth actually reported to the City of Chattanooga were always less than the permitted amount, thus concealing from the City of Chattanooga the fact that Hydro-Vac was in frequent violation of its permit limits. Hydro-Vac was in the business of taking in industrial wastewater for containment and treatment, some of which was then discharged to the sewer. The business ceased operations in July 2000.

Koppers Industries, Inc. (Alabama) - On September 5, 2002, the District Court for the Northern District of Alabama sentenced J. Daniel Bell, former environmental manager of Koppers Industries, Inc., to three years probation, six months home confinement, and a $2,000 fine. The sentence followed Bell's guilty plea in March 2002, to a Clean Water Act felony for falsifying discharge monitoring reports (DMRs) required by the facility's permit. The DMRs were required to be submitted to the Alabama Department of Environmental Management by Koppers for a now-closed coke plant in Dolomite, Alabama. Bell's plea arose out of a multimedia investigation of numerous environmental offenses alleged to have occurred at the Koppers Dolomite facility for several years, ending when the plant closed in 1998. The corporation recently pled guilty to three felonies and is scheduled to be sentenced in December 2002.

Lakeview Packing Company (North Carolina) - On March 19, 2002, Lakeview Packing Company, Inc. (Lakeview) pled guilty to conspiracy to violate the Clean Water Act in the United States District Court in Greenville, North Carolina. The company admitted it conspired with its employees to intentionally discharge wastes from its facility through a drainage pipe into Tyson Marsh, which empties into Contentnea Creek. The company admitted that underground pipes had been installed to bypass their permitted septic system, and that the pipes were used to dump waste directly into Contentnea creek, which is a tributary of the Neuse River. Lakeview faces a maximum fine of $500,000 or twice the amount the company saved by breaking the law.

Lakeview is a hog slaughter and processing company located near Goldsboro, North Carolina. In August 1998, a search warrant was executed at the facility based on information provided by an employee of Lakeview to the EPA Criminal Investigation Division. The search confirmed the existence of pipes discharging blood and other processing wastes into the marsh. The amount of the discharge averaged approximately 30,000 gallons per day. After the search warrant was executed, the company shut down for three months and rebuilt its sewage treatment system.

Dr. Clary Foote (Tennessee) **-** On June 6, 2002, Dr. Clary Foote pled guilty to a Clean Water Act violation before United States Magistrate Judge C. Clifford Shirley in the Eastern District of Tennessee, Knoxville Division. Dr. Foote, a physician in Harriman, Tennessee, was sentenced to serve twelve-months home detention, 300 hours of community service, and to pay a $10,000 fine to the United States. He was also ordered to pay restitution of $74,956.64 to the Tennessee Department of Environment and Conservation (TDEC), TVA Police, and the Southern Environmental Enforcement Training, Inc. Dr. Foote was ordered to cooperate with TDEC on the investigation and remediation of the former Harriman Power Company in Harriman, Tennessee, and to identify, analyze, and properly dispose of any hazardous waste or pollutants located at the site. The court also required him to place an advertisement in the Knoxville and Roane County, Tennessee newspapers apologizing to the public for the environmental violation.

In February 1999, Dr. Foote bought property located on the banks of the Emory River which was the site of the old Harriman Power and Paper Mill. Black liquor, a by-product of the pulp and paper industry, was stored in an 800,000 gallon above-ground storage tank located on the property. In February 2001, TDEC and the EPA Criminal Investigation Division received an anonymous tip that the tank was going to be emptied. When investigators arrived at the scene, they found a path of black runoff into the river. Investigators determined that Foote and an employee went to the tank on February 14, 2001, during a heavy rain, and opened the valve to the tank which allowed the contents to be discharged into the river. A few days later, Foote had the stained area around the tank covered with sawdust and mulch. Several months later, Foote admitted to investigators that he had discharged the material into the river because it was cheaper than disposing of it properly.

Truck, Trailer, and Equipment, Inc. (Mississippi) - On May 9, 2002, the Federal District Court in Jackson, Mississippi, sentenced Truck, Trailer, and Equipment, Inc. (TT&E), its owner, James W. Fielder, and the owner's son, Allen J. Fielder, in connection with the illegal disposal of waste generated by the company's truck and parts cleaning operations. The defendants had earlier pled guilty to felony charges. The judge sentenced the elder Fielder to one year and one day in federal prison plus two years probation. Allen Fielder was sentenced to six months home confinement and two years probation. The court sentenced the company to a fine of $50,000, and ordered it to pay restitution of $50,000. The company had already paid $250,000 to remediate the site.

The evidence indicates that for years, TT&E dumped spent solvents and other wastes into a wetland and stream bordering its facility. After being warned by public safety officials to stop discharging into the water, the defendants arranged instead to dump drums of the waste into an outlying area in Rankin County. The company came to the attention of the EPA Criminal Investigation Division after an FBI agent who worked with the Mississippi environmental crimes task force pulled over a truck that was transporting leaking drums to an illegal disposal site.

Tuscaloosa Aircraft Painting and Interiors (Alabama) - On November 30, 2001, a federal grand jury in the Northern District of Alabama indicted John D. Thomas, the owner and

operator of Tuscaloosa Aircraft Painting and Interiors (TAPI), on one count of illegally storing hazardous waste in violation of the Resource Conservation and Recovery Act. In early 1990, Thomas caused the unpermitted storage of almost 200 drums of hazardous waste from TAPI's operations in a leased warehouse. After an investigation by the Alabama Department of Environmental Management and the EPA Criminal Investigation Division confirmed that Thomas was responsible for storing the waste, Thomas was allowed to enter the Northern District's pretrial diversion program, an alternative to criminal indictment. As a condition of the diversion, Thomas agreed to repay the warehouse owner the cost of removing the waste, in the amount of approximately $40,000. Thomas was indicted when the United States Attorney's Office learned that Thomas had failed to pay.

High Rise Services, Inc. (North Carolina) - On December 6, 2001, a grand jury in the Eastern District of North Carolina indicted High Rise Services, Inc., its president, Andy Simmons, and the foreman, Tony Norris, for illegally discharging oil into the Cape Fear River in violation of the Clean Water Act. In November 1997, a release of approximately 15,000 gallons of oil and a considerable amount of oily wastewater occurred from a tank located on High Rise Services, Inc. property. The discharge caused an eight mile long plume in the river. The defendants failed to notify the National Response Center and when the Coast Guard arrived at the scene, the defendants told the Coast Guard that they did not know anything about the spill. The defendants were also indicted for obstruction of justice for collaborating on a second false statement to the Coast Guard. The defendants were further charged with violating used oil regulations under the Resource Conservation and Recovery Act for failing to label containers of oil and for storing used oil in leaking drums and containers. The indictment also charged defendant Simmons and bookkeeper Terry Hill with violations of federal tax laws. High Rise Services, Inc. is in the business of cleaning storage tanks and taking in used oil for refining and blending to make a usable product.

Danny Hill (North Carolina) - On June 26, 2002, a federal grand jury in Greensboro, North Carolina, indicted Danny Hill, contract operator of 14 private wastewater treatment plants in three counties in North Carolina. The felony Clean Water Act (CWA) and false statement charges arose from Hill's knowing violations of CWA permits for several of the plants and the falsification of monitoring reports required by the permits. In several instances, the violations allowed untreated or partially treated sewage to escape into receiving streams. The indictment resulted from the cooperation of North Carolina Department of Environment and Natural Resources, the North Carolina State Bureau of Investigation and the EPA Criminal Investigation Division.